

## **REMARKS**

Claims 29-32, 60, 61, 99, 105-116, 118-120 and 126-137 have been amended to clarify the claimed invention. No new matter is added by these amendments to the claims.

The Examiner has required an election under 35 U.S.C. § 121 of one of the following inventions:

Group I: Claims 29-32, 60, 61, 99-136 and 138-145, drawn to an antibody, composition comprising the antibody and method of making the antibody, classified in class 530, subclass 387.1, and class 435, subclass 184; and

Group II: Claims 137 and 138, drawn to a method of producing a phage Fab expression library, classified in class 435, subclass 6.

The Examiner contends that the inventions of the above Groups are distinct, each from the other. Further, the Examiner states that the application contains claims directed to patentably distinct species of a Delta protein such that Applicants are additionally required to elect a single nucleic acid sequence. Moreover, if Applicants elect a species of one of SEQ ID NOS:65-80, then Applicants must specify within which region/fragment set forth in claims 115-120 the elected sequence falls.

Applicants note that claim 138, which the Examiner assigned to Group II, is a dependent claim that depends from claims 131-137, and, thus, should be assigned to both Group I and to Group II. Accordingly, Applicants request that the Examiner modify the restriction requirement so as to include claim 138 in Group I.

In order to be fully responsive, Applicants hereby elect the invention of Group I, claims 29-32, 60, 61, 99-136 and 138-145, drawn to an antibody, composition comprising the antibody and method of making the antibody, classified in class 530, subclass 387.1, and class 435, subclass 184.

With regard to the Examiner's requirement to elect a single sequence of a

Delta protein, Applicants elect the sequence of SEQ ID NO:65. Claims readable on the elected species are believed to be claims 29-32, 60, 61, 99-105, 107-110, 113, 114, 116-118, 121-126, 128-139 and 142-145. Contrary to the Examiner's contention that there are no generic claims, Applicants believe that claims 29-32, 60, 61, 100-104, 107-109, 113, 114, 116-118, 121-125, 129-138 and 142-145 are generic.

With regard to the Examiner's request that Applicants specify within which region/fragment set forth in claims 115-120 SEQ ID NO:65 falls, Applicants note that SEQ ID NO:65 consists of amino acid residues 113-304 of human Delta and encompasses part of the extracellular domain, including the DSL domain and EGF-like repeats 1-2, and all but the last amino acid residue of EGF-like repeat 3. Therefore, with regard to claim 115, SEQ ID NO:65 does not fall within the membrane-associate region of the vertebrate Delta protein; with regard to claim 116, SEQ ID NO:65 comprises an epidermal growth factor-like repeat of the vertebrate Delta protein; with regard to claim 117, SEQ ID NO:65 consists of at least 20 contiguous amino acids of the vertebrate Delta protein; with regard to claim 118, SEQ ID NO:65 is a fragment of the vertebrate Delta protein that lacks the transmembrane and intracellular domain of the protein; with regard to claim 119, SEQ ID NO:65 is not a fragment of the vertebrate Delta protein that lacks the extracellular domain of the protein; and with regard to claim 120, SEQ ID NO:65 is not a fragment of the vertebrate Delta protein that lacks the epidermal growth factor-like repeats of the protein.

### **CONCLUSION**

Applicants respectfully request that the above-made remarks of the present response be entered and made of record in the file history present application.

Applicants request that the Examiner call Adriane M. Antler at (212) 790-2247 if any questions or issues remain.

Respectfully submitted,

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Enclosures